IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 78 OF 2007

Manjit Singh Obhan .... Applicant
Vs.
The State of Maharashtra .... Respondents
& Ors.

Mr. Rajendra Sorankar for the Applicant
Ms. M.H. Mhatre, APP for the Respondents

CORAM : J.H. BHATIA, J.
DATE : 25TH APRIL, 2007
P.C.

1) Heard Mr. Rajendra Sorankar, learned Counsel for the applicant, who seeks leave to prefer an appeal against the acquittal for the offence punishable under Section 138 of Negotiable Instruments Act.

2) According to the applicant, he had advanced an amount of Rs.3,00,000/- to the respondents as they needed the same for repairing their vehicle which had met with an accident. Some amount was repaid and for repayment of the balance amount, the respondents, who are accused nos.1 and 2, issued three cheques, one for Rs.68,500/- and two cheques of Rs.1,00,000/- each. First cheque was honoured

and remaining two cheques were dishonoured. Inspite of notice, the respondents failed to make payment and therefore the complaint was filed. The respondents contended that the complainant/ present applicant and P.S.I. Ravindra Shinde had utilised services of accused no. 1 as Estate Agent and complainant paid Rs.68,500/- as brokerage to him. However for some reasons, the Sale Agreement could not be executed and the respondent no. 1 was required to refund the amount of Rs.65,000/-. However using the presence of Police Sub Inspector Ravindra Shinde, the petitioner obtained blank cheques from him. The learned trial court noted that in his evidence in the cross examination, the complainant had admitted that he had obtained disputed cheques in blank condition with intervention of the Police Inspector, Shinde. I have perused the cross examination of the applicant wherein he stated "It is true that at that time accused told me that he did not have funds to repay the amount. It is also true that at that time accused issued three post dated blank cheques". This reply was given after it was put to him that Police had directed accused no. 1 to pay Rs.65,000/-. Admittedly one cheque of Rs.68,500/- was encashed and other two cheques were dishonoured. In view of the fact that the

applicant had obtained blank cheques without even mentioning the amount or the date, learned Magistrate came to conclusion that the cheques were not issued for valuable consideration and offence u/s 138 of Negotiable Instruments Act is not committed. Taking into consideration the circumstances noted above, it is difficult to take a different view.

3) For the aforesaid reasons, leave to prefer an appeal is refused. Application stands rejected.

(J.H. BHATIA, J.)